THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.17935 OF 2006
AND
WRIT APPEAL NO.1018 OF 2007

DATED 05-12-2007

WRIT PETITION NO.17935 OF 2006
M.S.Govinda Raju …Petitioner

And

The Director, IGP Medical
And three others …Respondents

WRIT APPEAL NO.1018 OF 2007

Between:
The Director IGP Medical,
Directorate General and
Three others ….Appellants

And

M.S.Govinda Raju …Respondent

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.17935 OF 2006
AND
WRIT APPEAL NO.1018 OF 2007

COMMON JUDGMENT (Per Hon'ble Sri Bilal Nazki, the Acting Chief Justice):

Heard learned counsel for the parties.

This writ appeal is filed against order dated 12-06-2007 passed by the learned Single Judge in WVMP No.2333 of 2006 in W.P.No.17935 of 2006, whereby the learned Single Judge made the status quo granted earlier absolute and dismissed the WVMP.

It appears that the writ petition being W.P.No.17935 of 2006 was filed by the respondent/writ petitioner challenging the order of transfer passed on 22-08-2006. The learned Single Judge on 28-08-2006 ordered status quo to be maintained. Thereafter the appellants/respondents filed a vacate stay petition being WVMP No.2333 of 2006, which was decided on 12-06-2007. The status quo order passed on 28-08-2006 has not been vacated and the order was made absolute on the ground that if the interim order dated 28-08-2006 was withdrawn, nothing would remain to decide in the main writ petition.

The respondent has been transferred from Hyderabad to Gauhati and on two grounds he challenged the order of transfer.

The first ground is that it was mid of academic session and his children would suffer if he was transferred. This ground is no longer available to the respondent as this ground might have been available in August, 2006. Fifteen months have already passed. Therefore, on this ground, the order of status quo cannot be continued when the second academic session has already been started. Had this been a genuine ground, then the respondent would have withdrawn the writ petition and moved to Gauhati in April, 2007 when the academic sessions ends in Hyderabad.

The second ground is that there is a guideline, which lays down that spouses be posted at one place, if they are working in the same Department, as far as possible. It is stated that the wife of the respondent is also working in the appellants' organization and she is posted in Hyderabad.

The learned Assistant Solicitor General appearing for the appellants submits that the wife of the respondent is not living with the respondent and in fact she has filed a petition before the appropriate Court for the custody of children, where she has also alleged that her husband i.e. the respondent was harassing her. Since both the respondent and his wife are not living together, therefore, such norm cannot be applicable to the respondent.

It is well settled that transfer is exigency of service and any guidelines issued by the Department are for the guidance of the Department itself and are not enforceable by the Courts of law. Therefore, in our view, the status quo order granted earlier should not have been made absolute. Therefore, order dated
12-06-2007 passed in WVMP No.2333 of 2006, making the status quo

order granted earlier absolute, is vacated and the writ appeal is accordingly allowed.

Since, we have dealt with the matter in detail, we do not think that it will serve any purpose to keep the writ petition on Board. Accordingly, the writ petition shall stand dismissed. No order as to costs.

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Bilal Nazki, ACJ

Dated 5th November, 2007

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Ramesh Ranganathan,J

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